86 - 1583

Supreme Court, U.S.
FILED
OCT 18 1986
JOSEPH F. SPANIOL, JR.
CLERK

No.

IN THE
SUPREME COURT OF THE UNITED STATES
TERM,

HUGH WILSON — PETITIONER:

V.

MYRA A. McDANIEL
SECRETARY OF STATE,
TEXAS — RESPONDENT.

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Hugh Wilson, pro se
2020 S. Congress Ave., Apt. 118
Austin, Texas 78704
(512) 444-1809

TABLE OF AUTHORITIES

1. Cases:
American Party of Texas v. White. Page 1.
Bullock v. Carter. Pages 1, 2.
(Jurisdiction) Page 2.
Luther v. Borden. Page 1.

2. Constitiutional Provisions:
Preamble. Pages 1, 2.
Article I. Pages 1, 2.
Article III, Section 1. Page 2.
Article IV, Section 4. Pages 2, 4.
Article XIV, Section 1. Page 2.
Amendment XII. Page 1.

3. Statutes:
New Texas Election Code,
effective for elections in 1986. Pages 1, 4.

4. Textbooks
The Federalist Papers
No. 48. Page 2.
No. 62. Pages 3, 4.
No. 52. Page 3.
No. 57. Page 3.
No. 60. Page 3.
Webster's New Collegiate Dictionary, 1980 Edition. Page 4.

QUESTIONS PRESENTED FOR REVIEW

1. The new Texas election code, effective for elections in 1986, requires that a citizen either pay a filing fee of $2,500, or obtain a petition of 500 signatures, in order to be a candidate for U.S. Representative in a party primary election. In 1972, the U.S. Supreme Court, in Bullock v. Carter, held unreasonably high filing fees, to get on a ballot in a party primary election, unconstitutional. In 1974, the U.S. Supreme Court, in American Party of Texas v. White, held a petition of 500 signatures to get on the ballot in the November general election to be valid.

Is it a general, Constitutional practice to construct an entire election procedure so that the final election will, if possible, produce a majority vote for each candidate elected, as in Amendment XII of the U.S. Constitution? If so, does the petition requirement decision apply in a party primary election?

2. Article I of the U.S. Constitution states that representatives shall be chosen by the people, and sets age, residence, and citizenship qualifications. Does any department of local, state, for federal government have Constitutional authority to add to these qualifications, or to interfere in any way with the voter's Constitutional authority to choose?

3. We, the people of the United States, created the United States Government in Order to carry out the six Constitutional purposes stated in the Preamble. Does the U.S. Supreme Court have Constitutional authority to require that all election laws, and elections, in the United States be constructed in a way that effectively elects public officials who can and will carry out those six Constitutional purposes?

4. In 1848, the Luther v. Borden decision gave elected public officials authority to judge the constitutionality of their own election laws and elections. Will the U.S. Supreme Court review that decision? Luther v. Borden, 7 How. (48 U.S.) 1(1849)

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

The petitioner, Hugh Wilson, respectfully prays that a writ of certiorari issue to review the judgements in this case.

OPINIONS BELOW

On May 7, 1986, the Federal District Court in Austin, Texas, dismissed this case as moot, because all procedure time requirements had not been met. On July 23, 1986, the United States Court of Appeals, Fifth Circuit, dismissed this case because the petitioner did not file a brief.

JURISDICTION

In 1972, in a candidate "filing fee system" case, Bullock v. Carter, the U.S. Supreme Court stated, "-we noted probable jurisdiction, 403 US 904, 29 L Ed 2d 679, 91 S Ct 2208." Bullock v. Carter 405 US 134, 31 L Ed 2d 92, 92 S Ct 849

The Guarantee Democracy Clause, Article IV, Section 4, of the U. S. Constitution.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution:

Article I, Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States,—

Article IV, Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government,—

Amendment XIV, Section 1. —No State shall/deny to any person within its jurisdiction the equal protection of the laws.

The Preamble. We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article III, Section 1. The Judicial Power of the United States, shall be vested in one supreme Court,—

The Federalist Papers:

Madison No. 48, "I shall undertake, in the next

place, to show that unless these departments be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained."

Madison No. 62, "A good government implies two things: first, fidelity to the object of government, which is the happiness of the people; secondly, a knowledge of the means by which that object can be best attained. Some governments are deficient in both these qualities; most governments are deficient in the first. I scruple not to assert that in American governments too little attention has been paid to the last. The federal Constitution avoids this error; and what merits particular notice, it provides for the last in a mode which increases the security for the first."

Madison No. 52, "The qualifications of the elected, being less carefully and properly defined by the State constitutions, and being at the same time more susceptible of uniformity, have been very properly considered and regulated by the convention. A representative of the United States must be of the age of twenty-five years; must have been seven years a citizen of the United States; must, at the time of his election, be an inhabitant of the State he is to represent; and during the time of his service, must be in no office under the United States. Under these reasonable limitations, the door of this part of the federal government is open to merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or to any particular profession of religious faith."

Madison No. 57, "Who are to be the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of his country. No qualification of wealth, of birth, of religious faith, or of civil profession is permitted to fetter the judgment or disappoint the inclination of the people."

Hamilton No. 60, "The truth is that there is no

method of securing to the rich the preference apprehended but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the national government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the legislature."

STATEMENT OF CASE

On January 8, 1986, I presented to the Chairman of the Texas Democratic Party, my application to have my name placed on the Democratic Party Ballot as a candidate for U.S. Representative for the tenth congressional district of Texas. My application stated, "I refuse to pay a filing fee, or obtain a petition." The Chairman, as required by the new Texas election code, refused to accept my application. Papers on the dismissal of this case by the Federal District and Appeals Courts attached.

REASONS FOR GRANTING THE WRIT

1. To review the Constitutionality of the State requirement that the petitioner pay a filing fee of $2,500, or obtain a petition with 500 signatures, to place his name on the Democratic Party Ballot as a candidate for U.S. Representative in the general primary election, held May 3, 1986.

2. To review the jurisdiction of the U.S. Supreme Court in Guarantee Clause cases, Article IV, Section 4, of the U.S. Constitution, "The United States shall guarantee to every State in this Union a Republican form of Government, —" Paraphrasing Madison in Federalist Paper No. 62: The Federal Constitution guarantees that We the People can use democratic elections to carry out the six Constitutional purposes of the United States Government. (There is a careful analysis and interpretation of the Guarantee Clause, page 850, and Political Questions, page 659, in *The Constitution of the United States*, 1972 Edition, prepared by the Congressional Research Service, Library of Congress.)

Webster's New Collegiate Dictionary, 1980 Edition:

democracy-"Government by the people. A government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections."

A Suggestion: Establish a nationwide
Voter-Jury System of Government,

with one Voter-Jury in each county, with authority to-

1. find honest and qualified candidates for all public offices in the United States, to be placed in the ballot with other candidates in open, honest, free, truly democratic elections,
2. hold all elections, to start impeachment proceedings and recall elections,
3. investigate the work of all public officials and government employees in the United States,
4. propose legislation on any subject, including taxes, appropriations, and salaries,
5. hire honest and qualified lawyers, at reasonable salaries, to provide legal services for all citizens, and to prevent injustice,
6. encourage the study of government and law in all schools in order to improve the Voter-Jury System of Government,
7. ?

CONCLUSION

For the foregoing reasons, petitioner Hugh Wilson respectfully requests that a writ of certiroari issue to review all problems involved.

Respectfully submitted,

Hugh Wilson, pro se
2020 S. Congress Ave., Apt. 118
Austin, Texas 78704

Judgment in a Civil Case
AO 450 (Rev. 5/85)

FILED

MAY 1, 1986

Charles W. Vagner, Clerk

By (MLN) Deputy

United States District Court

Western District of Texas

Hugh Wilson

JUDGMENT IN A CIVIL CASE

V

Myra A. Mc Daniel

CASE NUMBER: A-86-CA137

[ ] Jury Verdict. This action came before the Court for trial by jury. The issues have been tried and the jury has rendered its verdict.

[X] Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that this case is DISMISSED AS MOOT.

5/14/86 Charles W. Vagner
Date Clerk

Signed (Mary L. Nagle)
(By) Deputy Clerk

Appendix retyped by Hugh Wilson,
plaintiff.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

FILED
MAY 7 1986
Clerk, U.S District Ct
BY M (?) Deputy

HUGH WILSON	(	
	(	CIVIL NO.
VS.	(	A-86-CA-137
	(	
MYRA A. McDANIEL	(	

ORDER

Came on to be heard this day Plaintiff's Motion for Summary Judgment. The Court notes that the relief sought by Plaintiff in this action is placement of Plaintiff's name on the democratic primary ballot for the office of United States Representative. The Motion for Summary Judgment was filed on April 23, 1986. The Court could not act on the Motion

until the time to respond passed. The ten day response time allowed Defendant until May 7, 1986 to respond. The Court takes notice that this primary election occurred on May 3, 1986. This action is therefore MOOT, and shall be dismissed.[1]

---

[1]The Court notes that the complaint appeared to have no merit. The Plaintiff argued that the requirement of a filing fee or petition with 500 signatures to appear on the primary ballot violated the Constitution. This question has been decided by the Supreme Court. American Party of Texas v. White, 415 U. S. 767 (1974) (holding 500 signature petition not unduly burdensome); Bullock v. Carter, 405 U. S. 134, 149 (1972) (holding unconstitutional a statute that contained no petition alternative on the basis that, inter alia, it provided "no reasonable alternative means of access to the ballot").

IT IS THEREFORE ORDERED that this case is DISMISSED AS MOOT.

SIGNED and ENTERED this 7th day of May, 1986.

Signed James R. Nowlin
JAMES R. NOWLIN
UNITED STATES DISTRICT JUDGE

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 86-1344

HUGH WILSON,

Plaintiff-Appellant,

versus

MYRA A. MCDANIEL, SECRETARY OF STATE, TEXAS,

Defendant-Appellee.

Appeal from the United States District Court for the Western District of Texas

---

CLERK'S OFFICE:

Pursuant to Local Rule 42.3, the appeal was duly entered dismissed for want of prosecution for failure of appellant to file brief within the time

fixed by the rules, this 23rd day of July 1986.

GILBERT F. GANUCHEAU
Clerk of the United States Court
of Appeals for the Fifth Circuit

By: signed Della M. Jones
Deputy Clerk

FOR THE COURT-BY DIRECTION

U. S. Court of Appeals
FILED
July 23, 1986
Gilbert F. Ganucheau, Clerk

DIS-2